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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/735,750	12/13/2000	Pavel Kirochko	LAU.P.US0004	6670

26360 7590 03/24/2004

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EXAMINER

MULCAHY, PETER D

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/735,750

Applicant(s)

KIROCHKO ET AL.

eb6

Examiner

Peter D. Mulcahy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over van Cleeff, U.S. Patent 6,169,139 taken alone or in view of Moore, U.S. Patent 5,032,655 or Kruger et al. U.S. Patent 5,852,125.

The rejection as set forth under 35 U.S.C. 103 in Paper No. 3 is deemed proper and is herein maintained. Applicants' arguments have been fully considered but have been deemed to be not persuasive.

Applicants argue that van Cleeff fail to teach any coagent as well as the use of an organic peroxide so as to cure the fluoroelastomer latex. This is not persuasive. The list of compounding agents and curatives at column 9 lines 23+ is seen to be sufficiently suggestive so as to direct one of ordinary skill in the art to utilize art recognized cross-linking agents as well as flow agents. The Examiner maintains that one of ordinary skill in the art would understand that organic peroxide cross-linking agents and the coagents as both generically claimed and specifically claimed would function within this system and as such would be motivated to use them.

Applicants further argue that claimed process requires that the film be cured at an elevated temperature. Applicants point out that van Cleeff is silent as to the curing of the latex at an elevated temperature. The Examiner acknowledges that van Cleeff fails to exemplify curing the latex at an elevated temperature. van Cleeff does teach

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curatives to be added to the latex at column 9 lines 25+. The Examples of this patent do not include the optional curatives. The Examiner maintains that one of ordinary skill in the art would understand that when the curative is added, then curing at an elevated temperature is an art recognized method for obtaining the cured product. This is to say that the disclosure of van Cleeff is not limited by the Examples but rather the disclosure. When one of ordinary skill in the art reads the disclosure and understands that the curative is an optional ingredient, then when the curative is incorporated into the composition, then curing at an elevated temperature becomes obvious as well.

The Moore patent is cited as further showing peroxide curable fluoroelastomeric compositions which incorporate applicants' instantly preferred coagents. See specifically column 5 lines 1+. This patent is clear as to the peroxide cross-linking agent as well as the coagent and the formulation of fluoroelastomeric articles which are cured at an elevated temperature. The Examiner maintains that it would be prima facie obvious to utilize the peroxide curing agent in combination with the coagent in the composition of van Cleeff given that art recognized curatives are called for.

This rejection could be taken another way in that the claims are rendered prima facie obvious by Moore taken in view of van Cleeff. The Moore patent is silent as to utilizing the fluoroelastomer latex form. The fluoroelastomers in Moore are formed by emulsion polymerization thus forming a latex, however the polymer is preferably recovered from the latex prior to mixture with the curative. The Examiner maintains that it would be prima facie obvious to utilize the fluoroelastomer in latex form as shown in van Cleeff when practicing the invention of Moore given that coatings and films are obtainable with the use of such a process.

Kruger et al. Shows fluororubber compositions, which are suggested to be used as coating compositions, see the abstract, col. 4, lines 43+ and col. 5, lines 15+. These

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compositions further contain the organoperoxide and coagent, see col. 3, lines 1-10 and example 4. This patent teaches to polymerize the monomers in an aqueous medium thus forming a latex. This disclosure teaches the use of "liquid rubber technology" so as to form crosslinked coatings, see col.5, lines 15+. This language would motivate one of ordinary skill in the art to utilize the fluoroelastomer in latex form when a crosslinked coating is the object of the practitioner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter D. Mulcahy, whose telephone number is (571) 272-1107. The examiner can normally be reached during regular business hours.

The fax telephone number for this group is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or public PAIR. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

P. Mulcahy:cdc
February 25, 2004



PETER D. MULCAHY
PRIMARY EXAMINER